

## **REMARKS**

### **a). Description Of Amendments**

Applicants' attorney thanks the Examiner for her comments. Claims 1-10 and 12, 13, 15-29 are pending in this patent application. Claims 1, 5, 6, 12, 13, 15-21, 24 and 27 have been amended herein. Claims 11 and 14 have been canceled. No new subject matter has been added by this Amendment.

Independent Claim 1 has been amended to include the limitation that the first layer comprises a nonwoven web. This amendment is fully supported throughout Applicants' specification, for example at page 15, lines 3-10. Independent Claim 1 has been further amended to include the limitation that the second layer comprises a film. This amendment is fully supported throughout Applicants' specification, for example at page 18, line 18 through page 19, line 10.

Claim 5 has been amended in independent form to include all of the limitations of original independent Claim 1, as suggested by the Examiner. Claim 6 has been amended in independent form to overcome the Examiner's rejection under 35 U.S.C. § 112 and to include all of the limitations of original independent Claim 1, as suggested by the Examiner. Claim 16 has been amended in independent form to include all of the limitations of original independent Claim 11 and intervening dependent Claim 14, as suggested by the Examiner. Dependent Claims 12, 13, 15, and 17-21 have been amended to depend from Claim 16. Claim 27 has been amended in independent form to include all of the limitations of original independent Claim 24, as suggested by the Examiner.

**b). Request For Telephone Interview**

Applicants' undersigned attorney requests a telephone interview with the Examiner. The undersigned requests this interview if the amendments and arguments are not deemed sufficient to place the application in condition for allowance. If the Examiner feels the claims are not allowable for any reason, then please telephone the undersigned, Eric T. Krischke, at 847.490.1400.

**c). Response To Drawing Objections**

The Examiner objected to the drawings alleging that "Figure 1 shows reference number 45, which is never mentioned in the specification." Applicants have amended Fig. 1 as shown in the attached drawing sheet. Applicants respectfully request withdrawal of this objection.

**d.) Response To Claim Rejections**

The Examiner rejected Claim 6 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants have amended Claim 6, as suggested by the Examiner and, therefore, respectfully request withdrawal of this rejection.

The Examiner rejected Claims 1, 4, 7, 24-26 and 29 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,491,016 ("Kaiser et al."). This rejection is respectfully traversed, particularly in view of the above Amendment and the following remarks.

Kaiser et al. discloses a fabric including two outer layers that consist of only staple fibers, which do not undergo appreciable heat shrink during subsequent processing, and an inner layer of heat shrinkable bicomponent fibers. See Kaiser et

al. at Col. 2, lines 63 through Col. 3, line 2.

Kaiser et al. does not disclose each and every element or limitation of independent Claims 1 and 24. Applicants' invention as claimed in independent Claims 1 and 24 requires that the first layer comprises a nonwoven web having a first shrinkage extent and the second layer comprises a film having a second shrinkage extent different from the first shrinkage extent. In contrast, Kaiser discloses a fabric having an inner layer comprising heat shrinkable bicomponent fibers and outer layers comprising only staple fibers.

For at least these reasons, Applicants submit that Claims 1 and 24 are not anticipated by Kaiser et al. Because Claims 4 and 7 depend from Claim 1, and Claims 25, 26 and 29 depend from Claim 24, these claims are also not anticipated by Kaiser et al. Thus, Applicants respectfully request withdrawal of this rejection.

The Examiner rejected Claims 11, 14, 15 and 18-20 under 35 U.S.C. § 102(b) as being anticipated by European Patent 0 586 924 ("Pike et al."). This rejection is respectfully traversed, particularly in view of the above Amendment and the following remarks.

Independent Claim 11 has been canceled. Dependent Claims 14, 15 and 18-20 ultimately depend from currently amended independent Claim 16, which the Examiner has indicated would be allowable if rewritten in independent form including all the limitations of original independent Claim 11. Thus, Applicants respectfully request withdrawal of this rejection.

The Examiner rejected Claims 11, 14 and 19 under 35 U.S.C. § 102(b) as being anticipated by European Patent 0 687 757 ("Srinivasan et al."). This rejection is respectfully traversed, particularly in view of the above Amendment and the following remarks.

Independent Claim 11 has been canceled. Dependent Claims 14 and 19

have been amended to depend from currently amended independent Claim 16, which the Examiner has indicated would be allowable if rewritten in independent form including all the limitations of original independent Claim 11. Thus, Applicants respectfully request withdrawal of this rejection.

The Examiner rejected Claims 1, 4, 7 and 24-26 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,491,777 (“Bevins, III et al.”). This rejection is respectfully traversed, particularly in view of the above Amendment and the following remarks.

Bevins, III et al. discloses a method for forming a composite material having a first nonwoven layer and a second nonwoven layer deposited on the first layer. Bevins, III et al. does not disclose a method for producing a structured composite material, wherein a first layer comprising a nonwoven web having a first shrinkage extent is bonded to a second layer comprising a film having a second shrinkage extent different from the first shrinkage extent, and at least one of the first layer and the second layer shrinks to produce the structured composite material, as required by Applicants’ claimed invention.

For at least these reasons, Applicants submit that Claims 1 and 24 are not anticipated by Bevins, III et al. Because Claims 4 and 7 depend from Claim 1, and Claims 25 and 26 depend from Claim 24, these claims are also not anticipated by Bevins, III et al. Thus, Applicants respectfully request withdrawal of this rejection.

The Examiner rejected Claims 11-14, 17, 19 and 21 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,491,928 (“Smith”). This rejection is respectfully traversed, particularly in view of the above Amendment and the following remarks.

Independent Claim 11 has been canceled. Dependent Claims 12-14, 17, 19 and 21 have been amended to depend from currently amended independent Claim

16, which the Examiner has indicated would be allowable if rewritten in independent form including all the limitations of original independent Claim 11. Thus, Applicants respectfully request withdrawal of this rejection.

The Examiner rejected Claims 15, 18, 20, 22 and 23 under 35 U.S.C. § 103(a) as being unpatentable over Smith in view of Pike et al. This rejection is respectfully traversed, particularly in view of the above Amendment and the following remarks.

Dependent Claims 15, 18, 20, 22 and 23 ultimately depend from currently amended independent Claim 16, which the Examiner has indicated would be allowable if rewritten in independent form including all the limitations of original independent Claim 11. Thus, Applicants respectfully request withdrawal of this rejection.

The Examiner rejected Claims 2 and 3 under 35 U.S.C. § 103(a) as being unpatentable over Kaiser et al. or Bevins, III et al. in view of Pike et al. This rejection is respectfully traversed, particularly in view of the Amendment and remarks above.

Claims 2 and 3 depend from currently amended independent Claim 1, which Applicants believe is patentable for at least the reasons presented above. Thus, Applicants respectfully request withdrawal of this rejection.

The Examiner rejected Claims 8-10 and 28 under 35 U.S.C. § 103(a) as being unpatentable over Kaiser et al. or Bevins, III et al. in view of U.S. Patent 5,789,328 ("Kurihara et al."). This rejection is respectfully traversed, particularly in view of the above Amendment and the following remarks.

Claims 8-10 ultimately depend from currently amended independent Claim 1, and Claim 28 depends from currently amended independent Claim 24, which Applicants believe are patentable for at least the reasons presented above. Thus,

Applicants respectfully request withdrawal of this rejection.

The Examiner rejected Claim 29 under 35 U.S.C. § 103(a) as being unpatentable over Bevins, III et al. in view of Kaiser et al. This rejection is respectfully traversed, particularly in view of the above Amendment and the following remarks.

Claim 29 depends from currently amended independent Claim 24, which Applicants believe is patentable for at least the reasons presented above. Thus, Applicants respectfully request withdrawal of this rejection.

The Examiner rejected Claims 12, 13 and 17 under 35 U.S.C. § 103(a) as being unpatentable over Pike et al. in view of Srinivasan et al. This rejection is respectfully traversed, particularly in view of the above Amendment and the following remarks.

Claims 12, 13 and 17 have been amended to depend from currently amended independent Claim 16, which the Examiner has indicated would be allowable if rewritten in independent form including all the limitations of original independent Claim 11. Thus, Applicants respectfully request withdrawal of this rejection.

The Examiner rejected Claims 18 and 20 under 35 U.S.C. § 103(a) as being unpatentable over Srinivasan et al. in view of Pike et al. This rejection is respectfully traversed, particularly in view of the above Amendment and the following remarks.

Claims 18 and 20 have been amended to depend from currently amended independent Claim 16, which the Examiner has indicated would be allowable if rewritten in independent form including all the limitations of original independent Claim 11. Thus, Applicants respectfully request withdrawal of this rejection.

The Examiner provisionally rejected Claims 1-4, 7-15, 17-19, 24-26 and 28 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1, 5, 6-10, 16, 17, 24 and 27-29 of copending Application No. 09/871,171. The Examiner provisionally rejected Claim 20 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 24 and 29 of copending Application No. 09/871,171 in view of Pike et al. The Examiner provisionally rejected Claims 21-23 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 24 and 29 of copending Application No. 09/871,171 in view of Smith. The Examiner provisionally rejected Claim 29 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claim 7 of copending Application No. 09/871,171 in view of Kaiser et al.

Applicants file with this Amendment a terminal disclaimer in compliance with 37 CFR 1.321(c) to overcome the provisional rejections based on a nonstatutory double patenting ground.

**d). Allowable Subject Matter**

The Examiner objected to Claims 5, 16 and 27 as being dependent upon a rejected base claim, but indicated that these Claims would be allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims. Applicants have amended Claim 5 in independent form to include all of the limitations of original independent Claim 1. Applicants have amended Claim 16 in independent form to include all of the limitations of original independent Claim 11 and intervening original dependent Claim 14. Applicants have amended Claim 27 in independent form to include all of the limitations of original independent Claim 24.

The Examiner indicated that Claim 6 would be allowable if rewritten to overcome the rejection under 35 U.S.C. § 112, second paragraph, set forth in the Office Action and to include all of the limitations of the base claim and any intervening claims. Applicants have amended Claim 6 in independent form to include all of the limitations of original independent Claim 1 and to overcome the rejection of Claim 6 under 35 U.S.C. § 112, second paragraph, as suggested by the Examiner.

### CONCLUSION

Applicants intend to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicants have not addressed in this response, Applicants' undersigned attorney requests a telephone interview with the Examiner.

Applicants believe that the claims, as now presented, are in condition for allowance and, thus, respectfully request early allowance.

Respectfully submitted,



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